

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KEVIN O. HARPER.,

Plaintiff,

v.

SUSAN NOVAK, et al.

Defendants.

ORDER

Case No. 21-cv-313-jdp

On May 27, 2021, I entered an order assessing plaintiff Kevin O. Harper an initial partial payment of \$0.93 for filing the above case, which was due by June 17, 2021. Dkt. 7. Now plaintiff filed letter explaining why he cannot pay the filing fee, which I will construe as a motion to waive the initial partial filing fee. Dkt. 8.

In 28 U.S.C. § 1915, Congress has dictated the manner in which prisoners must pay the fees for filing federal lawsuits and appeals, and I have no discretion to modify this method. In calculating the amount of plaintiff's initial partial payment in this case, I used the trust fund account statements plaintiff submitted on May 27 in support of his for leave to proceed without prepaying the fee. Dkt. 2. The trust fund account statements show that plaintiff has had deposits made to his account, which I was able to calculate plaintiff's average monthly deposits to be \$0.93. In addition, plaintiff's most recent trust account statement from November 25, 2020 through May 25, 2021 shows that plaintiff receives regular deposits and currently has money in his release account. Therefore, I will deny without prejudice plaintiff's motion to waive the initial partial filing fee.

However, I will give plaintiff an extension of time until July 2, 2021, to submit the \$0.93 initial partial payment. If by July 2, plaintiff is still unable to pay the \$0.93 initial partial payment, plaintiff should submit an updated trust fund account statement that shows how his financial situation has changed.

ORDER

IT IS ORDERED that:

1. Plaintiff Kevin O. Harper's motion to waive the initial partial payment in the above case, dkt. 8, is DENIED without prejudice.

2. Plaintiff may have an enlargement of time to July 2, 2021, in which to submit a check or money order payable to the clerk of court in the amount of \$0.93 or to submit an updated trust fund account statement. If plaintiff does not have enough money in his regular account to pay the \$0.93 initial partial payment, plaintiff may use funds from his release account to pay the \$0.93 initial partial payment.

3. If, by July 2, 2021, plaintiff fails to make the \$0.93 initial partial, or to show cause for his failure to do so, plaintiff will be held to have withdrawn the action voluntarily and the case will be closed without prejudice to plaintiff's filing this case at a later date.

Entered this 11th day of June, 2021.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge